

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

THE STATE OF TEXAS

vs.

**CESSNA 560 CITATION JET
BEARING SERIAL NUMBER 560-
0068 AND ASSIGNED AND
DISPLAYING REGISTRATION/
TAIL NUMBER N569LM**

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CIVIL ACTION NO.: 9:20-cv-00175

AFFIDAVIT OF DEBRA MERCER-ERWIN

STATE OF OKLAHOMA

COUNTY OF CLEVELAND

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Before me, the undersigned notary, on this day personally appeared Debra Mercer-Erwin, the Affiant, whose identity is known to me. After I administered an oath, Affiant testified as follows:

1. "My name is Debra Mercer-Erwin. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

2. I am the owner and president of Aircraft Guaranty Corporation (hereinafter "ACG") in the above-reference lawsuit. I acquired personal knowledge of the facts stated in this affidavit because I was directly involved in registering a certain Cessna 560 Citation Jet bearing Serial Number 560-0068 and assigned and displaying Registration/Tail Number N569LM (the "Aircraft") on the Federal Aviation Administration ("FAA") Aircraft Registry by using a non-citizen trust.

3. The documents attached to this Affidavit are business records of ACG and are within my personal knowledge and are true and accurate copies of the original documents. I am familiar with the manner in which these records are created and maintained by virtue of my duties and responsibilities with ACG. The attached documents are original records or exact duplicates of original records, were made at or near the time of each event, act, condition, opinion or other activity set forth therein, the records were made by, or from information transmitted by, persons with knowledge of the matters set forth, these records are systematically kept in the ordinary course of regularly conducted business activity, and it is the regular practice of ACG to make such records.

4. The Aircraft is owned by the Continent Aircraft Statutory Trust No. 2564 (the “**Wyoming Trust 2564**”), a Wyoming Statutory Trust, with legal title to the Aircraft held by AGC. *See* Exhibit “A-1”, Statutory Trust Certificate of Trust executed on March 25, 2016, Exhibit “A-2”, Certificate of Organization dated March 31, 2016, Exhibit “A-3”, Trust Certificate No. 1 dated March 31, 2016 and Exhibit “A-4”, Trust Agreement dated March 31, 2016 titled “Continent Aircraft Statutory Trust No. 2564”, attached hereto and incorporated herein by reference (collectively, the “**Trust Agreement**”).

5. Wyoming Trust 2564 has a registered office in Jackson, Wyoming, and an administrative office in Oklahoma City, Oklahoma. When the current owner purchased the Aircraft in 2016, the 2564 Trustee maintained its administrative office in Oklahoma City, Oklahoma with only a mailing address in Polk County.

6. Since inception, the Wyoming Trust 2564 has remained in compliance with the FAA regulatory requirements for non-citizen trusts contained in 14 CFR 47.7. *See* Exhibit “A-5”, Affidavit and Certificate of Citizenship dated June 16, 2016, attached hereto and incorporated herein by reference.

7. The FAA has explicitly stated that the Wyoming Trust 2564 satisfies not only the requirements of 14 C.F.R. §§ 47.2(c)(2)(i) and 47.2(c)(2)(iii), but also complies with the FAA Policy Clarification regarding non-citizen trusts. *See* Exhibit “A-6”, FAA Opinion Letter dated May 18, 2016, attached hereto and incorporated herein by reference.

8. AGC is a Wyoming corporation with a registered office in Jackson, Wyoming, and an administrative office in Oklahoma City, Oklahoma, not in its individual capacity but solely as Trustee (the “**2564 Trustee**”) under the Wyoming Trust 2564. 2564 Trustee was not incorporated in Texas, does not have its principal place of business in Texas, and is not “doing business” in Texas.

9. The Aircraft is registered with the FAA in the name of the 2564 Trustee. Under the Wyoming Trust 2564, AGC is the grantor and Ancheta S.A. de C.V. (“**Ancheta**”) is the beneficiary. *See* Exhibit “A-7”, Accession Agreement dated May 16, 2016, and Exhibit “A-8”, Trust Certificate No. 2 dated May 16, 2016, attached hereto and incorporated herein by reference.

10. The Aircraft is being leased by 2564 Trustee to Ancheta, as operator of the Aircraft. *See* Exhibit “A-9”, Dry Lease Agreement and Addendum dated May 16, 2016, attached hereto and incorporated herein by reference (collectively, the “**Lease Agreement**”). The Lease Agreement has been filed with the FAA Aircraft Registry and maintained of public record.

11. The parties to the Trust Agreement and the Lease Agreement were not citizens and/or residents of Texas at the time of execution thereof. Neither the Trust Agreement nor the Lease Agreement were entered into in the State of Texas.

12. On or about July 9, 2020, the State of Texas ("Plaintiff"), filed this action in the 411th Judicial District Court, Polk County, Texas in Cause No. CIV33803, styled *The State of Texas vs. Cessna 560 Citation Jet Bearing Serial Number 560-0068 and Assigned and Displaying Registration/Tail Number N569LM* (the "State Court Action").

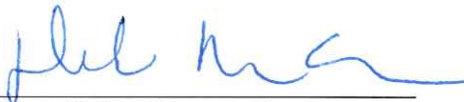
13. When the State Court Action was filed, the address for the 2564 Trustee of record with the FAA and on the Certificate of Aircraft Registration was 928 SW 107TH ST, Oklahoma City, Oklahoma, not Polk County.

14. 2564 Trustee does not currently (1) have an office or principal place of business in Texas, (2) own, rent, or lease real property in Texas, (3) have employees in Texas, or (4) maintain financial or bank accounts in Texas.

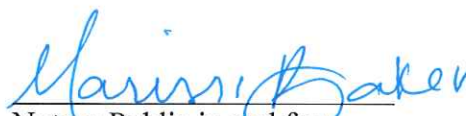
15. On or about August 14, 2020, I conducted a record search with the Texas Secretary of State. The results indicated that Aircraft Guaranty Trust, LLC, a foreign limited liability company, is terminated and inactive in Texas. This search yielded no records pertaining to either Aircraft Guaranty Holdings & Trust, LLC or Aircraft Guaranty Management & Trust, LLC.

16. Respondents Aircraft Guaranty Trust, LLC; Aircraft Guaranty Holdings & Trust, LLC; and Aircraft Guaranty Management & Trust, LLC have absolutely no affiliation whatsoever with Aircraft Guaranty Corporation and are not connected with the Aircraft nor has the Aircraft ever been physically located in Polk County.

Further affiant sayeth naught.


Debra Mercer-Erwin

SWORN TO AND SUBSCRIBED before me, on this the 21st day of August, 2020.


Notary Public in and for
The State of Oklahoma
My Commission expires:
06/17/23

